

REMARKS

Claims 1-16 have been canceled and new claims 17-33 added. As a result, Claims 17-33 are currently pending in the application. In view of the amendments and remarks herein, Applicants respectfully traverse the objections and rejections and submit that the present application is now in condition for allowance, and respectfully request notice of the same.

Rejections under 35 U.S.C. §112

Applicants have added new claims 17-33 which obviate the rejections made under 35 U.S.C. §112, first and second paragraphs. With respect to the claimed feature of adding the wide continuous light and the single-wavelength light or narrowband continuous light in an overlapped and non-overlapped manner, Applicants submit that this feature is clear as claimed. Further, the specification supports and describes this process, for example, at page 7:2-9. Accordingly, Applicants respectfully traverse these rejections in view of new claims 17-33 and request withdrawal of the rejections under these paragraphs.

Rejections under 35 U.S.C. §102(b) and §103

The previous claims were rejected under 102(b) as anticipated by Scecina (WO 01/16577) or under 103(a) as obvious over Scecina in view of Caro (U.S. Patent No. 5,348,003), Dahne (U.S. Patent No. 4,655,225), and/or Swedlow (U.S. Patent No. 5,746,697). Applicants respectfully traverse these rejections.

The present claims recite a method and instrument for obtaining a concentration of a component of interest. The claimed method and instrument utilize two sources of light, a continuous light source and a discrete light source, to emit to emit a composite light toward a target position. The continuous light source emits wideband continuous light whereas the discrete light source emits at least one single-wavelength light or at least one narrowband continuous light. The wavelength of the single-wavelength light or the spectrum of the narrowband continuous light is within the range or spectrum of the wideband continuous light. The references relied upon at least fail to disclose these claimed features.

On the other hand, Scecina discloses use of two non-overlapping bands of wavelengths to measure the concentration of a blood constituent. Indeed, Scecina's invention is based upon adding a second wavelength outside the range of the first wavelength. (see, e.g., page 3:27-page 4:6, page 4:10-18). Accordingly, Scecina cannot anticipate the current claims because Scecina does not disclose each and every feature thereof.

One of ordinary skill in the art would not modify Scecina to arrive at the claimed method and instrument. Scecina teaches away from the claimed feature that the wavelength of the single-wavelength light or the spectrum of the narrowband continuous light is within the range of the spectrum of the wideband continuous light. Rather, Scecina is clear that the bands of wavelengths reside in two separate non-overlapping ranges. Thus, one of ordinary skill in the art would have no reason to modify Scecina to achieve the claimed method and apparatus. Further, none of the other references relied upon cure the deficiencies of Scecina. Accordingly, for at least the reasons above, Applicants respectfully request withdrawal of the above rejections, and submit that the applications is in condition for allowance.


CONCLUSION

In light of the foregoing, Applicants respectfully request reconsideration and allowance of claims all pending claims. The Commissioner is authorized to charge any additional fees or credit any overpayments associated with this Amendment to Deposit Account 13-0206.

Applicants further invite the Examiner to contact the undersigned representative at the telephone number below to discuss any matters pertaining to the present Application.

Respectfully submitted,

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By: 
Matthew J. Gryzlo, Reg. No. 43,648
Kevin P. Shortsle, Reg. No. 58,084
Customer No. 1923
McDermott Will & Emery LLP
227 West Monroe Street
Chicago, Illinois 60606-5096
312.372.2000